Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
Universal Service Contribution Methodology	)	WC Docket No. 06-122
A National Broadband Plan For Our Future	)	GN Docket No. 09-51

COMMENTS OF THE INFORMATION TECHNOLOGY INDUSTRY COUNCIL

July 9, 2012

Introduction

The Information Technology Industry Council ("ITI"), which represents the global leaders in the information technology industry,[1] strongly supports the Commission's efforts to update the outdated contribution method for the Universal Service Fund. ITI's membership includes companies that makes and provide computer hardware and software, Internet services, and wireline, fiberline, and wireless networking equipment. ITI is the voice of the high tech community, advocating for policies that advance U.S. leadership in technology and innovation, open access to new and emerging markets, support e-commerce expansion, promote consumer choice, and enhance global competition.

[1] ITI's membership comprises the following companies: Accenture, Adobe, Agilent Technologies, Alcatel-Lucent, Altera, AMD, AOL, Apple, Applied Materials, Autodesk, Broadcom, CA Technologies, Canon, Cisco, Cognizant, Corning, Dell, Ebay, EMC, Ericsson, Fujitsu, Google, HP, IBM, Intel, Intuit, Kodak, Lenovo Lexmark, Micron, Microsoft, Monster, Motorola Solutions, NRC, Nokia, Nokia Siemens Network, Oracle, Panasonic, Qualcomm, Ricoh, RIM, SAP, Schneider Electric, Sony, Symantec, Synosys, Teradata, Texas Instruments, Verisign, VM Ware

ITI applauds the Commission's work to update the Universal Service Fund to reflect today's telecommunications marketplace, and supports replacing the current contribution methodology with one that is transparent to consumers, sustainable, efficient, eases administrative requirements, protects innovation, and is competitively neutral. As the Fund is transitioned to support deployment and expansion of broadband networks, it is important to have a contribution system that does not overly burden the services provided over broadband networks, nor one that provides competitive advantages to various business models within classes of services. Creating a contribution method that provides a stable, reliable stream of income to expand the benefits of broadband service to under-, and un-served, populations while protecting innovation and market competition should be the overarching goal of contribution methodology reform.

I. Maintaining Contribution Obligations on a Service-by-Service Basis Will Be Difficult to Administer and Fundamentally Change the Operation of the Internet.

Continuing on a revenue-based, service-by-service basis as the FNPRM proposes[2] would be complicated and burdensome to administer, difficult to structure to ensure competitive neutrality, harmful to small business and innovators, and potentially ever expanding. It would also be susceptible to consumer trends and changes in technology, services, and applications, and require constant updating, which is costly as companies must make changes to billing and recordkeeping. Most importantly, it would be drawing fees from the very services that the Connect America Fund is aiming to deliver through

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[2] *2012 Universal Service Contribution Methodology, Further Notice of Proposed Rulemaking,* paragraph 40.

expansion of broadband service, and could sweep in virtually any type of service on the Internet.

In reforming the Universal Service Contribution Methodology, the Commission should also be mindful of the impacts of assessing obligations on services which may be virtually identical to the consumer, but which are supported by different business models. Identical services may be offered to a customer strictly as a paid-service by the end user, by a hybrid of paid-service subsidized through advertising support, or as a free service provided solely through advertising support. Hardware and device manufacturers may also bundle software or applications with their product providing consumers free services that are not ad supported, and never generate any revenue, but rather are only included as an incentive to purchase the hardware or device. Assessing revenue-based obligations only on services that generate direct revenue from an end user significantly disadvantages those companies that do not use ad-supported revenue to fund and maintain their business. Alternatively, trying to assess obligations on hardware bundled, ad-subsidized, or ad-supported services would be burdensome, difficult, and costly for companies to maintain compliance. It could also stifle competitive new services if innovators had to acquire additional employees simply to comply with Universal Service Administrative Company reporting requirements.

II. The Commission Should Adopt a Connections-based Approach.

The Commission should reform the Universal Service Contribution Methodology by adopting and moving to a system that assesses a flat fee on end user broadband connections. First and foremost, a connections-based approach would be competitively neutral, and less susceptible to changes and evolution of specific services or the broader marketplace.

Secondly, the burden of administration for a connections-based approach would be significantly eased. A connections-based methodology will eliminate the need for the Commission and service providers to address complex definitional issues that would arise from a service-based methodology. Levying a flat fee on end users based on connections would eliminate the onerous task of tracking direct, or ad supported revenues of specific services. A facilities-based connections approach would likely be simpler to administer and more stable than a service-based connections approach, as a service-based connections approach would again be subject to changes and evolution of services and the broader marketplace.

Additionally, a connections-based approach provides the predictability and sustainability necessary for long-term health of the Fund, and is significantly less vulnerable to changes in the marketplace and evolution of services to which a service-by-service revenue approach is susceptible. ITI agrees with the conclusions in the FNPRM that a declining contribution base could undermine the goals of universal service, and that one of the goals of reform should be "to create an improved system that will adapt to market changes and stabilize the contribution base."[3] The number of fixed PSTN voice subscriptions will continue its downward trend as users increasingly switch to mobile and VoIP substitutions.[4] Mobile broadband subscriptions have grown around 60 percent

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[3] FNPRM, paragraph 25.

[4] Ericsson Traffic and Market Report, June 2012 (available at www.ericsson.com/res/docs/2012/traffic_and_market_report_june_2012.pdf), page 6.

year-on-year and have reached 1.1 billion as of the first quarter of 2012.[5] As of the end of 2011, the number of mobile broadband subscriptions reached close to 1 billion, and is predicted to reach 5 billion in 2017.[6] In the first three months of 2012, 106 million Americans owned smartphones, and 50 percent of those used downloaded applications.[7] More than two out of every three mobile devices sold in the U.S. is a smartphone.[8] A connections-based approach recognizes these market changes and would provide a stable contribution base over the long-term by taking advantage of these growth patterns in connections.

Ultimately, a connections-based approach would benefit the consumer. A flat-fee assessed per connection would be predictable, and easy for consumers to understand. This is increasingly true with the move toward bundled services that is noted in the FNPRM.[9] A flat, connection-based fee for USF would be clearer to consumers than varying fees for services that don't correspond with their monthly bill.

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[5] *Ibid.* page 5.
[6] *Ibid.* page 6.
[7] comScore Reports March 2012 U.S. Mobile Subscriber Market Share (available at www.comscore.com/Press_Events/Press_Releases/2012/5/comScore_Reports_March_2012_U.S._Mobile_Subscriber_Market_Share)
[8] Nielsenwire, Smartphones Account for Half of all Mobile Phones, Dominate New Phone Purchases in US (available at http://blog.nielsen.com/nielsenwire/online_mobile/smartphones-account-for-half-of-all-mobile-phones-dominate-new-phone-purchases-in-the-us/).
[9] The FNPRM cites multiple sources in its conclusion that "most telecommunications providers are marketing services in bundles, whether of fixed voice, broadband, and video, or mobile wireless voice, text messaging, and data." FNPRM, paragraph 18.

III. Clarity to the Consumer and Technological Neutrality Can Be Mutual.

The issues around providing clarity to the consumer can be demonstrated with respect to the questions raised in the FNPRM on text messaging.[10] Text messages may be delivered and received through a variety of services and protocols, often within the same application on a desktop, laptop, tablet, or mobile device. Many applications today are able to send and receive “text messages” and pictures through various protocols, often at no charge to the consumer, riding on top of a device’s broadband or data connection. This provides an alternative to traditional SMS or MMS, but is virtually indistinguishable to the consumer as messages can be sent and received within a single application. While use of text messages may be significantly growing as the Commission notes[11], as smart phones proliferate, and additional applications and services become available to send and receive text messages, assessing contributions from revenue on text messages, or other IP services that are similar to text messages, could stifle innovation in this space or provide a competitive advantage to specific business models. Moreover, the existence of the rule itself could lead technologies in a particular direction solely to avoid having to pay a fee. That is, the fee could skew innovation in a manner having nothing to do with technology, and everything to do with economics. ITI believes that innovation is best fostered in an environment as free as possible, without the existence of arbitrage opportunities or disincentives, acting to direct the creativity that drives our industry in one direction or another.

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[10] FNPRM, paragraphs 49-56.
[11] FNPRM, paragraph 54.

Conclusion

The Commission should move forward with reforming the Universal Service Contribution Methodology in a manner that provides clarity and certainty to consumers, innovators, and service providers, and will ensure sustainability in the fund. A flat fee, connections-based approach will provide long-term viability, simplify administration, and most importantly, provide clarity and predictability for the consumer, in a competitively neutral manner.

Respectfully Submitted,

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